IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 5806 of 2005

Between:

A. Dhan Raj, S/o. Late Sri A. Purushotham,
R/o. 2-3-792/4/1, Golnaka, Amberpet, Hyderabad.

.... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep by its

Commissioner, Tank Bank, Hyderabad.
2 The Assistant City Planner, Circle-III, Municipal Corporation

of Hyderabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in refusing to grant permission basing upon the entry in the TSLR Certificate without looking into the other title deeds, as illegal, arbitrary and consequently direct the respondents to grant the building permission in favour of petitioner for construction of building in the premises bearing Municipal No. 2-3-792/4/1, Golnaka, Amberpet, Hyderabad.

Counsel for the Petitioner:SMT.KAVITHA GOTTIPATI

Counsel for the Respondents: MR.RAMA RAO GHANTA

The Court at the stage of admission, made the following:

ORDER:

The petitioner is aggrieved by the action of the respondents in refusing to grant sanction of plan for construction of a building in the premises bearing Municipal No.2-3-792/4/1, situated at Golnaka, Amberpet, Hyderabad.

The case of the petitioner is that he is the owner and possessor of the premises bearing No.2-3-792/4/1 situated at Gonaka, Amberpet, Hyderabad. According to the petitioner the site, in which the building in question was constructed, was purchased by his father under the registered Sale Deeds dated 17.03.1958 and 23.04.1967 and constructed a house therein. After his death, the petitioner inherited the premises in question in the family partition under the Registered Partition Deed dated 20.06.1992 and ever since the petitioner has been in actual physical possession and enjoyment of the same. The petitioner states that he intended to construct a building by demolishing the existing one and he has submitted an application dated 15.12.2004 and reminder dated 18.01.2005 to the second respondent-Assistant City Planner, Circle III, Municipal Corporation of Hyderabad requesting to grant permission for construction of a new building. However, the second respondent, by his letter dated 27.01.2005 informed the petitioner that as per the TSLR, the premises in question falls in T.S.No.129 Block-A, Ward-165 of Amberpet village and recorded as G.V.M. rastha and that the permission sought by the petitioner cannot be granted. Aggrieved by the said action of the respondents, the present writ petition is filed.

Heard both sides.

The contention of the petitioner is that even assuming that the premises in question has been recorded in the Town Survey Records as Government land, the respondents are not justified in rejecting the application for grant of building permission solely on the basis of the said entry. The learned counsel for the petitioner has brought to my notice that an identical question has been considered by this Court in **Hyderabad Potteries Pvt. Ltd. Vs. Collector, Hyderabad District**, wherein it has been held that an entry in TSLR itself cannot be the conclusive proof of title or lack of it, and the decision either to grant or refuse permission cannot be taken solely on the basis of an entry made in the TSLR. It is further held that it may be one of the factors that may have to be taken into consideration along with the other material available on record, but an entry made in TSLR *per se* could not create any doubt or cloud on the right, title and interest of a person in respect of any land.

A perusal of the impugned order shows that permission sought by the petitioner for construction of the multi-storied residential building was refused, solely on the ground that the entry in the TSLR shows that the said land was recorded as Government land. Hence the ratio laid down in the decision cited supra, is directly attracted and on that ground alone the order impugned is liable to be set aside**.**

In the circumstances, following the decision in ***Hyderabad Potteries Pvt. Ltd. Vs. Collector, Hyderabad District*** (1 supra), Letter No.7595/ACP/C3/TPS/MCH 2004 dated 27.01.2005 refusing building permission to the petitioner is set aside and the 2nd respondent is directed to consider the matter afresh without having regard to the entry made in TSLR (Town Survey Land Record) and to pass appropriate orders on the application made by the petitioner seeking permission for construction of the multi-storied residential building, within four weeks from the date of receipt of this order.

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07.04.2005

Note : Furnish C.C. in one week.

(B/O)

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To

1 The Commissioner, Municipal Corporation of Hyderabad,

Tank Bank, Hyderabad.
2 The Assistant City Planner, Circle-III, Municipal Corporation

of Hyderabad, Hyderabad.

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